



ENVIRONMENTAL PROTECTION AGENCY

[EPA-HQ-OPP-2022-0223; FRL-11467-01-OCSP]

Final Cancellation Order for Certain Chlorpyrifos Registrations and Uses

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA) hereby announces its final cancellation order for the cancellations and amendments to terminate uses voluntarily requested by the registrants and accepted by the Agency, of the products in Table 1 and Table 2 of Unit II, pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). This final cancellation order follows a May 3, 2023, *Federal Register* Notice of Receipt of Requests from the registrants listed in Table 3 of Unit II, to voluntarily cancel or amend these product registrations. In the May 3, 2023, notice, EPA indicated that it would issue a final order implementing the cancellations and amendments, unless the Agency received substantive comments within the 30-day comment period that would merit further review of these requests, or unless the registrants withdrew their requests. The Agency received two comments on the notice, which are summarized in Unit III.B. EPA's responses to these comments and its determination that these comments do not merit further review of these cancellation and amendment requests are included in Unit III.C. None of the registrants withdrew their request for these voluntary cancellations or amendments. Accordingly, EPA hereby grants the requested cancellations and amendments to terminate uses as shown in this cancellation order. Any distribution, sale, or use of existing stocks of these products subject to this cancellation order is permitted only in accordance with the terms of this order.

DATES: The cancellations and amendments are effective [INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

FOR FURTHER INFORMATION CONTACT: Patricia Biggio, Pesticide Re-Evaluation Division (7508M), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; telephone number: (202) 566-0700; email address: *OPPChlorpyrifosInquiries@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

This action is directed to the public in general and may be of interest to a wide range of stakeholders including environmental, human health, and agricultural advocates; the chemical industry; pesticide users; and members of the public interested in the sale, distribution, or use of pesticides. Since others also may be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action.

B. How can I get copies of this document and other related information?

The docket for this action, identified by docket identification (ID) number EPA-HQ-OPP-2022-0223, is available at <https://www.regulations.gov> or at the Office of Pesticide Programs Regulatory Public Docket (OPP Docket) in the Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW, Washington, DC 20460-0001. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566-1744. Please review the additional information about the docket available at <https://www.epa.gov/dockets>.

II. What action is the Agency taking?

This document announces the cancellations and amendments through termination of certain uses, as requested by registrants, of products registered under FIFRA section 3 (7 U.S.C. 136a). These registrations are listed in sequence by registration number in Table 1 and Table 2 of this Unit.

Table 1 – Product Cancellations.

EPA Registration Number	Company No.	Product Name	Active Ingredients
228-620	228	Nufarm Chlorpyrifos SPC 2.32% G Insecticide	Chlorpyrifos
228-621	228	Nufarm Chlorpyrifos SPC 1.0% MCB Insecticide	Chlorpyrifos
228-624	228	Nufarm Chlorpyrifos SPC 4 Insecticide	Chlorpyrifos
228-625	228	Nufarm Chlorpyrifos SPC 2 Insecticide	Chlorpyrifos
53883-394	53883	CSI 16-150 Chlorpyrifos 42	Chlorpyrifos
53883-407	53883	CSI 16-149 Chlorpyrifos 20	Chlorpyrifos
84229-25	84229	Chlorpyrifos 4E AG	Chlorpyrifos
84229-26	84229	Chlorpyrifos 15G	Chlorpyrifos

Table 2 – Chlorpyrifos Registrations with Specific Uses to be Terminated.

Registration Number	Company No.	Product Name	Uses to be terminated
11678-58	11678	Pyrinex Chlorpyrifos Insecticide	Food processing plants
66222-19	66222	Chlorpyrifos 4E AG	Food processing and food manufacturing sites
66222-233	66222	Vulcan	Food processing and food manufacturing sites
85724-10	85724	Akofos 48 EC	Food uses: Alfalfa, apple (including apple tree trunk), asparagus, cherries, citrus fruits (calamondin, chironja, citrus citron, citrus hybrids, grapefruit, kumquat, lemons, limes, mandarin (tangerine), oranges, pummelo, satsuma mandarin, tangelo, tangor, and other citrus fruit, small transplanted grapefruit, orange, and other citrus trees), corn, cotton, cranberries, figs, grapes, legume vegetables (legume vegetables including adzuki bean, asparagus bean, bean, blackeyed pea, broad bean (dry and succulent), catjang, chickpea, Chinese longbean, cowpea, crowder pea, dwarf pea, edible pod pea, English pea, fava bean, field bean, field pea, garbanzo bean, garden pea, grain lupin, green pea, guar, hyacinth bean, jackbean, kidney bean, lablab bean, lentil, lima bean, moth bean, mung bean, navy bean, pea, pigeon pea, pinto bean, rice bean, runner bean, snap

			<p>bean, snow pea, English pea, southern pea, sugar snap pea, sweet lupin, sword bean, tepary bean, urd bean, wax bean, white lupin, white sweet lupin, yardlong bean), mint (peppermint and spearmint), nectarines, peaches, almonds, onions, peanuts, pears, sorghum grain (milo), soybeans, strawberries, sugar beets, sunflowers, sweet potatoes, tree fruits (apples, pears, plums, prunes, peaches, nectarines), tree nuts (almonds, filberts, pecans, walnuts), vegetables (rutabaga, broccoli, Brussels sprout, cabbage, cauliflower, Chinese cabbage, collards, kale, kohlrabi, turnips, radishes), wheat, and food processing plants.</p> <p>Nonfood uses: Tobacco</p>
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Table 3 – Registrants Requesting Voluntary Cancellation or Termination of Uses

EPA Company Number	Company name and address
228	NuFarm 4020 Aerial Center Pkwy., Suite 101 Morrisville, NC 27560
11678	ADAMA US 3120 Highwoods Boulevard, Suite 100 Raleigh, NC 27604
53883	Control Solutions, Inc. 5903 Genoa Red Bluffs Road Pasadena, TX 77507
66222	ADAMA US 3120 Highwoods Boulevard, Suite 100 Raleigh, NC 27604
84229	Tide International USA, Inc. Agent Name: Pyxis Regulatory Consulting, INC., 4110 136 TH Street CT NW Gig Harbor, WA 98332
85724	AAKO B.V. c/o Ceres International LLC 1087 Heartsease Drive West Chester, PA 19382

III. Public Comments

A. Brief History

EPA issued a rule in the *Federal Register* on August 30, 2021 (86 FR 48315) (FRL-5993-04-OCSPP) revoking chlorpyrifos tolerances on the grounds that they were not safe (the “Final Rule”). Pursuant to the procedures set forth in FFDCA section 408(g)(2), objections to, requests for evidentiary hearings on those objections, and/or requests for a stay of the Final Rule were filed on or before the close of the objections period on October 29, 2021. EPA issued an Order published in the *Federal Register* on February 28, 2022 (87 FR 11222) (FRL-5993-05-OCSPP), denying all objections to the Final Rule and requests for hearing on those objections, as well as requests for stay of the Final Rule (the “Denial Order”).

Since the objections process did not result in any changes to the Final Rule, chlorpyrifos tolerances expired on February 28, 2022, under the terms of the Final Rule. Once the tolerances expired, use of pesticide products containing chlorpyrifos on food or feed crops would result in adulterated food, which cannot be sold in interstate commerce. After EPA alerted registrants of chlorpyrifos products of the lack of tolerances and the options for their products, several registrants submitted requests to voluntarily cancel their registered chlorpyrifos products or amend their chlorpyrifos pesticide products to remove food uses. The registrants identified in Table 3 of Unit II, among others, submitted such requests. Notice of EPA’s receipt of these requests was published for comment in the *Federal Register* on May 3, 2023 (“Notice of Receipt”). The 30-day public comment period closed on June 2, 2023.

B. Summary of Comments Received

During the public comment period, EPA received two comments in response to the Notice of Receipt. The comments can be found in the docket for this action, identified by docket identification (ID) number EPA-HQ-OPP-2022-0223, available at <https://www.regulations.gov> and are briefly summarized here. One comment was submitted by the American Sugarbeet Growers Association, U.S. Beet Sugar Association, and the Beet Sugar Development Foundation. A second comment was submitted anonymously by a private citizen generally supporting the cancellation of the pesticide.

The comment from the American Sugarbeet Growers Association, U.S. Beet Sugar Association, and the Beet Sugar Development Foundation opposed the voluntary cancellation of the products in the Notice of Receipt. In particular, these commenters specified concerns that the voluntary cancellation of chlorpyrifos registrations and termination of certain uses is premature while there is ongoing litigation regarding the Final Rule and Denial Order in the U.S. Court of Appeals for the Eighth Circuit, *Red River Valley Sugarbeet Growers Ass'n et al., v. Regan, et al.*, Nos. 22-1422, 22-1530 (8th Cir.). These commenters also specified concerns that the loss of chlorpyrifos as a pest management tool will result in substantial increased costs, lost profits, decreased crop yields, and a larger environmental impact from more frequent use of less effective alternatives.

C. EPA Response to Comments

Regarding the comments submitted by the American Sugarbeet Growers Association, U.S. Beet Sugar Association, and the Beet Sugar Development Foundation, the cancellations and amendments requested by the registrants listed in Table 3 are appropriate at this time because section 6(f)(1) of FIFRA allows registrants to submit, at any time, a request that EPA cancel their registrations or amend their registrations to terminate one or more uses. 7 U.S.C. 136d(f)(1)(A). A registrant may have a variety of reasons for requesting voluntary cancellation of a pesticide product registration at any time, including, for example, lack of interest in maintaining the registration, market conditions, costs of maintaining the registration, or the pesticide no longer being marketed.

EPA cannot compel registrants to maintain registrations if they request to voluntarily cancel them. The resolution and timing of the litigation in the Eighth Circuit is still unknown, and therefore, retention of the registrations could subject registrants to additional maintenance fees and responsibilities for those registrations which the registrants requested cancellation or amendment. See, *e.g.*, 40 CFR part 152, subpart G (registrant responsibilities); 7 U.S.C. 136a-

1(i)(1) (maintenance fee obligations); 7 U.S.C. 136e (production reporting requirements); 7 U.S.C. 136f (recordkeeping requirements).

Moreover, retention of these registrations will not make chlorpyrifos products available for use on sugarbeets as the commenters desire. As noted in Unit III.A. above, all tolerances for residues of chlorpyrifos have been revoked. The revocation of the tolerances means that application of chlorpyrifos to food or feed crops, including sugarbeets, will result in adulterated food and/or feed which cannot be shipped in interstate commerce. While cancellation of the eight products in Table 1 and amendment of four products in Table 2 does not terminate the last of the chlorpyrifos products registered in the United States, these products (and other remaining chlorpyrifos products) cannot be applied to food crops.

IV. The Cancellation Order

Pursuant to FIFRA section 6(f) (7 U.S.C. 136d(f)(1)), EPA hereby approves the requested cancellations and amendments to terminate uses of the registrations identified in Table 1 and Table 2 of Unit II. Accordingly, the Agency hereby orders that the product registrations identified in Table 1 of Unit II are cancelled and the uses identified on the products listed in Table 2 of Unit II are terminated.

The cancellations and amendments addressed in this Order are effective [INSERT DATE of publication in the *FEDERAL REGISTER*]. Any distribution, sale, or use of existing stocks of the products identified in Tables 1 and 2 of Unit II in a manner inconsistent with any of the provisions for disposition of existing stocks set forth in Unit V will be a violation of FIFRA.

V. What is the Agency's Authority for Taking these Actions

Section 6(f)(1) of FIFRA (7 U.S.C. 136d(f)(1)) provides that a registrant of a pesticide product may at any time request that any of its pesticide registrations be cancelled or amended to terminate one or more registered uses. Section 6(f)(1)(B) of FIFRA (7 U.S.C. 136d(f)(1)(B)) further provides that, before acting on the request for voluntary cancellation or amendment, EPA must publish a notice of receipt of any such request in the *Federal Register* and provide a 30-day

public comment period on the request for voluntary cancellation or use termination. Following the public comment period, the EPA Administrator may approve such a request. The notice for this action was published for comment in the *Federal Register* on May 3, 2023 (88 FR 27882) (FRL-10923-01-OCSPP). The 30-day public comment period closed on June 2, 2023.

VI. Provisions for Disposition of Existing Stocks

Existing stocks are those stocks of registered pesticide products that are currently in the United States and that were packaged, labeled, and released for shipment prior to the effective date of the cancellation action.

Because all chlorpyrifos tolerances expired on February 28, 2022, use of chlorpyrifos in or on food will result in adulterated food, which cannot be delivered into interstate commerce. Such use would be inconsistent with the provisions of FIFRA. EPA is allowing existing stocks of chlorpyrifos products identified in Tables 1 and 2 that are already in the hands of end-users to be used only for non-food uses identified on the existing labels, until those existing stocks are exhausted, as long as such use is consistent with the label. All other use of existing stocks of these chlorpyrifos products are prohibited.

Because sale and distribution of chlorpyrifos products bearing labeling for use on food is inconsistent with the purposes of FIFRA, all sale and distribution of the chlorpyrifos products identified in Table 1 and Table 2 of Unit II. is prohibited with the following exceptions:

1. Existing stocks of all products listed in Tables 1 and 2 may be sold or distributed for export consistent with FIFRA section 17 (7 U.S.C. 136o) and for proper disposal.

2. Since the issuance of the May 3, 2023, Notice, EPA has realized that some of the products listed in Table 1 do not bear any labeling for use on food. Accordingly, existing stocks of those products, which are listed below, may be sold or distributed for one year after the date of this cancellation order:

- Nufarm Chlorpyrifos SPC 2.32% G Insecticide (EPA Reg. No. 228-620).
- Nufarm Chlorpyrifos SPC 1.0% MCB Insecticide (EPA Reg. No. 228-621).

- Nufarm Chlorpyrifos SPC 4 Insecticide (EPA Reg. No. 228-624).
- Nufarm Chlorpyrifos SPC 2 Insecticide (EPA Reg. No. 228-625).

3. Existing stocks of the following products may be distributed consistent with the Control Solutions, Inc. (“CSI”) return program agreement that EPA approved on October 12, 2023.

- CSI 16-150 Chlorpyrifos 42 (EPA Reg. No. 53883-394).
- CSI 16-149 Chlorpyrifos 20 (EPA Reg. No. 53883-407).
- Quali-Pro Chlorpyrifos 4E (EPA Reg. No. 66222-19). Quali-Pro Chlorpyrifos 4E is an alternate brand name for Chlorpyrifos 4E AG (EPA Reg. No. 66222-19).

EPA notified CSI of the approval of their return program agreement on October 12, 2023.

This cancellation order also amends the cancellation order published in the *Federal Register* on May 4, 2023 (88 FR 28541) (FRL-10924-01-OCSP) by clarifying that any products with the EPA Reg. No. 66222-19 and bearing the alternate brand name of Quali-Pro Chlorpyrifos 4E may be distributed to CSI pursuant to the CSI return program agreement referenced above. Products with the EPA Reg. No. 66222-19 and bearing the primary brand name of Chlorpyrifos 4E AG may continue to be returned to Adama as per the return program agreement approved by EPA on April 19, 2023, under the terms of the May 4 cancellation order.

Additional information regarding the chlorpyrifos return program for Control Solutions, Inc. may be found in <https://www.regulations.gov/docket/EPA-HQ-OPP-2022-0223> or by contacting the registrant at: Control Solutions, Inc. (800) 242-5562 or email: csi-customer-service@controlsolutionsinc.com.

Dated: October 26, 2023.

Mary Elissa Reaves,

Director, Pesticide Re-Evaluation Division,

Office of Pesticide Programs.